

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	
Provisions of the Telecommunications Act of)	CC Docket No.96-98
1996)	
)	CC Docket No. 95-116
Telephone Number Portability)	

**COMMENTS OF AT&T WIRELESS SERVICES, INC.
ON THIRD FURTHER NOTICE OF PROPOSED RULEMAKING IN
CC DOCKET 99-200, AND SECOND FURTHER NOTICE OF PROPOSED
RULEMAKING IN CC DOCKET NO. 95-116**

AT&T Wireless Services, Inc. (“AWS”) hereby respectfully submits its comments on the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) in the above dockets.¹

I. DISCUSSION

The Commission seeks comment in this FNPRM on the following issues: (i) whether all local exchange carriers (“LECs”) and covered commercial mobile radio service (“CMRS”) carriers operating in the largest 100 metropolitan statistical areas (“MSAs”) should be required to provide local number portability (“LNP”) regardless of whether they have received a specific request for portability from another carrier; (ii) whether LECs and covered CMRS carriers should be required to participate in thousands-block number pooling even if not LNP-capable; (iii) whether small carriers should be exempt from these requirements; and (iv) whether the

¹ See *Matter of Numbering Resource Optimization, Implementation of Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability*, FCC 02-73, CC Dockets No. 99-200, 96-98, 95-116, Third Order on Reconsideration in CC Docket No.99-200, Third Further Notice of Proposed Rulemaking in CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No.95-116 (2002) (“FNPRM”);

definition of “largest 100 MSAs” should include the updated U.S. Census list of combined MSAs (“CMSAs”).

Preliminarily, AWS notes that it is unclear whether the Commission’s discussion of LNP implementation rules in the instant FNPRM is intended to apply to CMRS carriers. Verizon Wireless’ petition requesting that the Commission forbear from its requirements of LNP for covered CMRS carriers (“Verizon Wireless Petition”)² remains pending at the Commission. In the FNPRM, the Commission specifically notes that the “LNP requirement for CMRS providers will be addressed in a separate proceeding.”³ Moreover, to the extent that the Commission grants the Verizon Wireless Petition, CMRS carriers would not be required to provide LNP under any circumstances. Although AWS continues to assert that the Commission should forbear from imposing the LNP requirement on CMRS carriers, out of an abundance of caution, AWS files these comments on the questions posed in the FNPRM.

In the event that the Commission determines to continue to impose the LNP requirement on CMRS carriers, AWS recommends that the Commission: (1) maintain its current rule and require all carriers within the largest 100 MSAs to provide LNP upon a specific request; (2) require all carriers in the top 100 MSAs to participate in thousands-block number pooling regardless of whether the carriers are fully LNP-capable; and (3) define the “largest 100 MSAs” to include the CMSAs in the year 2000 U.S. Census Bureau’s list, provided that carriers are given additional time to become LNP and pooling capable in these areas.

Federal Register Notice, 67 Fed. Reg. 16347 (Apr. 5, 2002) (comments due May 6, 2002 and reply comments are due May 20, 2002).

² See *Verizon Wireless Petition Pursuant to 47 U.S.C. 160 for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation*, WT Docket No.01-184 (filed Jul. 26, 2001).

³ FNPRM at 1, n.2.

A. To the Extent that the Commission Imposes the LNP Requirement on the CMRS Industry, All Carriers (Including CMRS Carriers) Within the Largest 100 MSAs Should Be Required to Provide LNP Only Upon Specific Request

Originally, the Commission required carriers in the top 100 MSAs to provide LNP upon a specific request from a competing carrier for LNP.⁴ Subsequently, last year in the *NRO Third Report and Order*, the Commission altered this rule and required *all* covered CMRS and local exchange carriers to provide LNP regardless of whether the carrier had received a request.⁵ Because the *NRO Third Report and Order* substantially revised the Commission's earlier requirement without seeking comment, the Commission reverted to its original rule while seeking comment in this FNPRM on the LNP triggering mechanism in the top 100 MSAs. The Commission further seeks comment on whether certain "small carriers that have switches either within the largest 100 MSAs or in areas adjoining the largest 100 MSAs, but provide service to no or few customers within the MSA, should be exempt from the LNP requirement because they are not likely to receive a request for LNP."⁶

As noted above, if the Commission grants the pending Verizon Wireless Petition, the requirement to provide LNP may not apply under any circumstance to CMRS carriers. AWS strongly urges the Commission to grant the Verizon Wireless Petition, and exempt CMRS carriers from the LNP requirement for the reasons stated in its comments filed in that docket,

⁴ See *Matter of Telephone Number Portability*, FCC 96-286, CC Docket No.95-116, First Report and Order and Further Notice of Proposed Rulemaking (1996) ("First LNP Order") at para. 80; *Matter of Telephone Number Portability*, FCC 97-74, CC Docket No.95-116, First Memorandum Opinion and Order on Reconsideration (1997) ("LNP Reconsideration Order") at para. 59; 47 C.F.R. § 52.23 and 52.31.

⁵ *Numbering Resource Optimization*, FCC 01-362, CC Docket No.99-200, Third Report and Order and Second Order on Reconsideration in CC Docket No.99-200 (2001) ("*NRO Third Report and Order*" at para. 124.

⁶ FNPRM at para. 8.

including the fact that the costs and burdens of wireless LNP outweigh the benefits.⁷ In the event that the Commission declines to grant the Verizon Wireless Petition, however, AWS believes that the Commission should maintain its existing rule that requires all carriers in the top 100 MSAs to provide LNP *upon a specific request* for porting from another carrier.⁸ This approach is the most reasonable and efficient one for a number of reasons, including that: (1) as recognized by the Commission in its *LNP Order on Reconsideration*, it allows carriers to “target their resources where number portability is needed and avoid expenditures in areas within an MSA in which competitors are not currently interested;”⁹ (2) it is consistent with the past practice for the wireline industry; and (3) it does not negatively affect number pooling/conservation efforts.

Maintaining the current rule that carriers deploy LNP in their switches upon a specific carrier request is the most reasonable and cost-efficient approach for LNP implementation. As the Commission noted in its prior LNP orders, the request requirement fosters more efficient deployment, network planning and testing, and reduces costs.¹⁰ The “request” requirement also helps alleviate the “small carrier” issue, because no carrier has to make the requisite expenditures to prepare its networks for LNP unless it receives a request for portability. To require carriers to provide LNP regardless of a specific request could mean that a carrier would incur additional costs if there were no competing carrier seeking to port its customer’s number.

⁷ See *Comments of AT&T Wireless in Support of Verizon Wireless’ Petition*, WT Docket No.01-184 (filed Sept. 21, 2001) (“AWS comments”); *Reply Comments of AT&T Wireless in Support of Verizon Wireless’ Petition* (filed Oct. 22, 2001) (“AWS reply comments”).

⁸ 47 C.F.R. § 52.23(b)(2)(iii) and 52.31(a).

⁹ *LNP Reconsideration Order* at paras. 59-60.

¹⁰ *Id.* at para. 59.

Further, the Commission's current process requiring "requests" prior to implementing new technologies has worked well in the past. This is the process wireline carriers have been using for LNP for the last three years.¹¹ It is also consistent with the Commission's past practices in implementing conversions for, among other things, equal access for independent telephone companies.¹² In addition, eliminating the "request" requirement at this juncture would create significant problems for at least one sector of non-LNP capable carriers, CMRS carriers. Although as explained above, AWS believes that the Commission should forbear from the LNP requirement for wireless carriers, the current wireless mandate for LNP is November 24, 2002, less than seven months away.¹³ As is explained in its comments and ex partes in the Verizon Wireless Petition proceeding,¹⁴ AWS already has serious doubts about the CMRS industry's ability to meet the current LNP implementation date; any changes in the LNP deployment rules at this late point would only further complicate and delay implementation.

Finally, as discussed in greater detail below, because the local routing number ("LRN") architecture necessary to participate in thousands-block number pooling is separate and apart from the full provision of LNP. Maintaining the current process would not have any significant negative effects on number conservation efforts.

B. All Carriers in the Top 100 MSAs Should Participate in Thousands-Block Number Pooling Regardless of Whether They are LNP-Capable

Although the Commission originally made the pooling obligation contingent upon a carrier's ability to port, it has become clear to at least the wireless industry that full LNP

¹¹ See 47 C.F.R. § 52.23(b)(2)(iii).

¹² See *LNP Reconsideration Order* at para. 59.

¹³ The amount of time left for CMRS carriers to meet the LNP mandate of November 24, 2002 becomes even shorter once the Commission issues an order in this FNPRM.

¹⁴ See, e.g., AWS comments and AWS reply comments.

capability is not a technical prerequisite to participate in thousands-block number pooling. Thus, AWS supports requiring *all* carriers in the largest 100 MSAs to participate in thousands-block number pooling, regardless of whether these carriers are fully LNP-capable, provided, however, that there is the requisite critical mass of carriers in the rate center with which to pool.

As the FNPRM recognizes, the implementation of the LRN architecture is distinct and separate from the implementation and provision of full LNP.¹⁵ The Commission has recognized further that there are critical numbering optimization benefits resulting from thousands-block number pooling, which are separate and apart from LNP.¹⁶ When numbering resources were more plentiful, it made sense *not* to require carriers to undergo the expense required for implementing the LRN architecture simply to implement thousands-block number pooling. However, given the growing concerns with number conservation and the Commission's strong reliance on thousands-block number pooling, that expense now would appear to be justified. Accordingly, the Commission should require that all carriers within the top 100 MSAs participate in the thousands-block number pooling requirement, regardless of whether these carriers are LNP-capable. Without this requirement, the full conservation effects of thousands block number pooling would not be realized.

The Commission also requested comment on whether certain small carriers, or classes of carriers should be exempt from the FNPRM's pooling requirements.¹⁷ Although AWS does not support an exemption for small carriers per se, AWS does believe that pooling should only be

¹⁵ FNPRM at para. 9.

¹⁶ See FNPRM at para. 9; *Numbering Resource Optimization, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, FCC 00-429, CC Dockets No.99-200, 96-98, Second Report and Order, Order on Reconsideration in CC Docket No.96-98, and CC Docket No.99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No.99-200 (2000) ("*NRO Second Report and Order*"), at para. 7.

¹⁷ FNPRM at para. 9. The Commission exempted paging carriers from the requirement to participate in pooling. See *NRO Third Report and Order* at para. 16.

required in those rate centers where it will be effective. Pooling provides significant number conservation benefits in those rate centers where there are enough carriers with enough numbers to donate to, and take numbers from, the pool.¹⁸ If there are just one or two carriers in a rate center, there likely is not sufficient critical mass to make pooling effective. Thus, AWS proposes that carriers in rate centers with less than three providers be exempt from the pooling requirement (regardless of their size). This rule likely will exempt a number of smaller carriers and will ensure that the requisite investment in the supporting network architecture will be made only when number optimization benefits are likely to result.¹⁹

C. The “Largest 100 MSAs” Should Include Combined MSAs

Although AWS does not object in principle to inclusion of the CMSAs in the top 100 MSAs, given that there has been some confusion surrounding the list of top 100 MSAs, AWS recommends that the Commission provide carriers additional time to implement porting and pooling in these newly added areas.²⁰

Moreover, AWS recommends that the Commission use the year 2000 Census list of MSAs, and not delegate to states the authority to include or delete additional CMSAs on the list. As the Commission has recognized, certainty and uniformity in numbering administration is critical,²¹ and same certainty in the definition of the largest 100 MSAs is absolutely essential so

¹⁸ For example, the Commission recognized that it would be unreasonable to require non-LNP capable carriers outside of the largest 100 MSAs to participate in pooling because “they would have few, if any, carriers with which to pool.” *See NRO Third Report and Order*, at para. 19.

¹⁹ If a state commission on its own or with input from the North American Numbering Plan Administrator believed that significant number optimization benefits could be obtained in a rate center with only two carriers, the state commission could petition the Commission to include those carriers in the pooling requirement.

²⁰ It does not appear that the Commission has included the CMSAs in its thousands-block number pooling rollout schedule.

²¹ *NRO Third Report and Order* at para. 21; *Numbering Resource Optimization*, FCC 00-104, CC Docket No.99-200, Report and Order and Further Notice of Proposed Rulemaking (2000) (“*NRO First Report and Order*”), at para. 169.

that carriers are able to plan their networks and operations efficiently and effectively.

Accordingly, AWS urges the Commission not to allow states the flexibility of defining the definition of the “largest 100 MSAs” because such delegation would result in too much uncertainty for carriers determining whether and how to enter to provide service in certain areas, and would further impede the growth of competition.

II. CONCLUSION

For the foregoing reasons, AWS recommends that, to the extent that the LNP implementation requirements in this FNPRM may apply to CMRS carriers,²² the Commission maintain its current rule and require all carriers within the largest 100 MSAs to provide LNP upon a specific request. Further, AWS recommends that the Commission require all carriers within the top 100 MSAs to participate in thousands-block number pooling regardless of whether the carriers are fully LNP-capable; and define the “largest 100 MSAs” to include the CMSAs in the year 2000 U.S. Census Bureau’s list, provided that carriers are given additional time to become LNP and pooling capable in these newly added areas.

Respectfully submitted this 6th day of May 2002,

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²² This assumes, again, that the Commission will not have granted the Verizon Wireless Petition and that the Commission has determined to apply the LNP requirement to CMRS carriers.